

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

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Attachment No. 2

INITIAL STATEMENT OF REASONS**CALIFORNIA CODE OF REGULATIONS**

**TITLE 8: Division 1, Chapter 4, Subchapter 7, Article 10, Section 3400
of the General Industry Safety Orders**

Medical Services and First Aid**SUMMARY**

This rulemaking proposal is the result of Petition File No. 482, received March 9, 2006, by the Occupational Safety and Health Standards Board (Board) regarding first aid and medical services. At its August 17, 2006, meeting, the Board directed the Division of Occupational Safety and Health (Division) to convene an advisory committee to consider the Petitioner's request. The advisory committee met on November 3, 2006.

This petition was submitted to the Board as a result of a medical emergency at an urban general industry employer at which 911 telephone access was neither available nor appropriate; however, no alternative method to contact emergency services had been made and a delay in emergency response resulted.

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION**Section 3400. Medical Services and First Aid.****Subsection (b).**

This subsection requires first aid training to meet certain minimum standards, such as those of the federal mine safety agency. The name of the federal mine safety agency has changed since the original adoption of this subsection, so this proposed rulemaking would make an editorial change which is necessary to correct the reference to the current name of the agency.

Subsection (c)

This subsection requires adequate first aid materials be supplied to employees. Employees are referred to as “workmen.” This proposed rulemaking action would make this reference gender neutral which is necessary to modernize the grammatical usage of this section.

Subsection (f)

Subsection (f) requires employers to develop advance plans for providing emergency medical services to seriously injured or ill employees at isolated locations. There are employment locations which, while not isolated, still require advance planning if emergency medical services are to be expeditiously and reliably delivered. The following changes to Section 3400(f) are necessary to improve the standard to ensure that all employers are required to make effective advance preparations for medical emergencies:

1. In the first sentence:
 - a) The term “*isolated location*” would be removed. The duty of an employer to make effective advance preparations to provide emergency medical services is no different for an employer at an isolated location than for any other employer. However, the proposed new language preserves an employer’s option to provide emergency medical services via prompt transport of injured or ill employees. Thus, where appropriate and effective, employers at isolated or remote locations would still have this option available.
 - b) The word, “*effective*” would be added as the first word of the subsection to make clear that employer provisions for emergency medical services must be adequate to deliver them to the jobsite in a timely and reliable manner.
 - c) The word “*must*” is changed to “*shall*” without regulatory effect so that word usage will conform to that found throughout the rest of Title 8.
 - d) Medical “*attention*” would be changed to “*treatment*” for purposes of clarity.
 - e) The phrase “in case of serious injuries” would be changed to “in the event of serious injury or illness.” The phrase “in the event of” is more consistent with usual usage in Title 8. “Illness” is added so there is clarity that both injuries and illnesses are intended to be covered by this section.
2. The second sentence of this section makes it clear that the methods the employer chooses to provide emergency medical services must avoid unnecessary delay in providing medical treatment and that an employer is not restricted to a single method.
3. Finally, there is a list of choices that, singly or in combination, meet the criteria for the effective provision of medical services. These are the same options that are mentioned in the existing version of this subsection, but changes have been made that clarify aspects inherent in these options that must be addressed if the choices are to indeed be effective in providing medical services.

- a) The first option covers the summoning of outside medical services via any effective electronic method, including the 911 system. In order to ensure the effectiveness of this option, wording is included to alert employers that it may be necessary to include provision for directing responding services to specific locations within a large facility or building.
- b) The second option for an on-site treatment facility (changed from “on-the-site” for clarity) makes it clear that if an employer chooses this option, the facility must be medically adequate for treating the anticipated severity of injury or illness and readily accessible so there is no delay in providing the treatment.
- c) The third option adds language to clarify that when transport is chosen for medical reasons, the mode of transport is both appropriate for the medical purpose and is necessary. This rewording is necessary to ensure that it is clear to employers choosing this option that their advance planning include choice of appropriate type of vehicle to transport either injured or ill employees, and that employees should be transported only when it is medically appropriate. For example, it might not be medically appropriate to transport a person with a broken back in a van over rough back country roads. The proposed change would also change the reference from injured “person” to “employee” to be more consistent with Title 8 language usage.

DOCUMENTS RELIED UPON

1. Petition to the Occupational Safety and Health Standards Board (OSHSB), dated March 6, 2006.
2. Petition Decision dated August 17, 2006, regarding OSHSB Petition File No. 482.

These documents are available for review Monday through Friday from 8:00 a.m. to 4:30 p.m. at the Standards Board Office located at 2520 Venture Oaks Way, Suite 350, Sacramento, California.

DOCUMENTS INCORPORATED BY REFERENCE

None.

REASONABLE ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES

No reasonable alternatives were identified by the Board and no reasonable alternatives identified by the Board or otherwise brought to its attention would lessen the impact on small businesses.

SPECIFIC TECHNOLOGY OR EQUIPMENT

This proposal will not mandate the use of specific technologies or equipment.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made a determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

Other Nondiscretionary Costs or Savings Imposed on Local Agencies

This proposal does not impose nondiscretionary costs or savings on local agencies.

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed standard does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendments will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, this standard does not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

The proposed standard does not require local agencies to carry out the governmental function of providing services to the public. Rather, the standard requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed standard does not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

The proposed standard does not impose unique requirements on local governments. All employers - state, local and private - will be required to comply with the prescribed standard.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments will not affect small businesses as defined in Government Code Section 11342.610.

ASSESSMENT

The adoption of the proposed amendments to this standard will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

ALTERNATIVES THAT WOULD AFFECT PRIVATE PERSONS

No reasonable alternatives have been identified by the Board or have otherwise been identified and brought to its attention that would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.